

12 March 2003

Hon George Hawkins
Minister of Internal Affairs
Parliament Buildings
WELLINGTON

cc: Minister of Broadcasting
Associate Minister of Arts, Culture and Heritage

Dear Minister

**Government Administration Committee Inquiry Into Operation of the Films,
Videos and Publications Classification Act 1993 and related issues**

We have read the Committee's report of 5 March 2003. Our submission made in May 2001 to this Inquiry can be viewed on our website.

We are very concerned at the nature of some of the recommendations made by the Committee. They have far-reaching consequences yet the text of the report neither displays a detailed understanding of classification issues and processes nor an understanding of some of the implications of the recommendations.

We understand the Government has 90 days in which to respond. We request that, if the Government intends to act on any of the recommendations, it consults with the broadcast and screen industry beforehand. If this does not happen, problematic policy and poor law will emerge.

Some of our concerns include:

- Recommendation 1: The suggested change to the s3(1) definition. This completely changes the intention of the 1993 Act. The Committee is reacting to a Court of Appeal judgment with claims that are at least highly debateable. This is alarming given the Committee's desire to increase the powers of the censor substantially on the basis of arguable logic. The Government needs extensive and dispassionate legal advice on this.
- Recommendation 10: Reviewing (meaning abolishing) the discount rates for film festivals. This is a distressing development, given many titles only screen a few times and cost-recoupment is difficult. It is the best way of ensuring that a wide range of arthouse films is **not** released in New Zealand.

- The labelling recommendations are mostly highly bureaucratic and display a poor understanding of cinema practice.
- Recommendation 18: The proposal to require all films classified “M” in Australia to be referred automatically to the OFLC is completely unreasonable. The film has already been deemed unrestricted in a similar territory and we understand that only a tiny proportion of Australian “M” films has been reclassified as restricted by the OFLC in the last decade. Thus there is no evidence of a problem and we believe this move can only be interpreted as a revenue-generating exercise for the OFLC.
- Recommendations 19-22: The report says that there was little support for a single media regulatory agency. This has not stopped the Committee going down a path it was clearly going to travel. The recommendations show a lack of understanding between the broadcast and cinema / video worlds with proposals to regulate the broadcast world in line with the latter. This is despite the fact that broadcast audiences are considerably larger and that the medium is accessed more regularly. An extraordinary recommendation is made that broadcasters should have one rating system for films (based on the OFLC) and one ratings system for all their other programmes. The practical difficulties of these recommendations are extraordinary and the logic deeply flawed.

We have not investigated the other recommendations in depth. However we would observe that if they are as flawed as those pertaining to our world, there would need to be serious consideration given to whether any should be adopted.

Interestingly, one area where the Committee could have usefully focused is the powers of the Secretary of Internal Affairs, and the Chair of the Board of Review, in dealing with appeals in a timely manner within a system that does not encourage frivolous appeals (which cost distributors needless time and money). The Committee has ignored this very real problem and compounded it by recommending the abolition of fees. See my letter to you of 15 May 2002.

We would be happy to prepare detailed comments on the report if necessary. We are an organisation with limited resources, however, and would first prefer to know what the Government’s intended response to the report will be. As we say above, the logic and recommendations of the report are seriously questionable and any movement from the status quo must be dealt with by extensive consultation.

I look forward to hearing from you.

Yours sincerely

Jane Wrightson
Chief Executive